



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE
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Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

Jeffrey Hurst
Regional Director

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
AMERICAN MOUNTAIN TECHNOLOGIES, LLC
FOR
AMERICAN MOUNTAIN TECHNOLOGIES, LLC FACILITY
Registration No. 11854**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the Virginia Department of Environmental Quality and American Mountain Technologies, LLC, regarding the American Mountain Technologies, LLC facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms in this Consent Order have the meaning assigned to them in Va. Code § 10.1-1300 *et seq.* and the Regulations for the Control and Abatement of Air Pollution (Regulations) at 9 VAC 5-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. American Mountain Technologies, LLC (AMT) is a business entity authorized to do business in Virginia and references to AMT include its affiliates, partners, and subsidiaries. AMT is a "person" within the meaning of Va. Code § 10.1-1300.

2. AMT owns and operates the production of large steel waste containers and modification of large steel shipping containers including spray painting operations located at 17403 Lee Highway, in Abingdon, Washington County, Virginia.
3. On October 5, 2022, Department staff conducted a site inspection at AMT for compliance with the requirements of the Virginia Air Pollution Control Law and the Regulations. Based on the site inspection, Department staff made the following observation:
 - a. AMT had installed and operated equipment without first obtaining a permit.
4. 9 VAC 5-80-1120(A) requires that no owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the department a permit.
5. On November 3, 2022, based on the site inspection, the Department issued Notice of Violation No. ASWRO002384 to AMT for the violations described in paragraph C(3), above.
6. On November 12, 2022, AMT provided an electronic response to the NOV stating the intent to submit an air permit application. On December 16, 2022, an initial air permit application was submitted by AMT.
7. Based on the results of the October 5, 2022 site inspection and the initial application submitted on December 16, 2022, the Department concludes that AMT has violated 9 VAC 5-80-1120(A), as described in paragraphs C(3) through C(4), above.
8. In order for AMT to return to compliance, DEQ staff and representatives of AMT have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Consent Order (Order).

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Department orders AMT, and AMT agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$9,946 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

AMT shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, AMT shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of AMT for good cause shown by AMT, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. ASWRO002384, dated November 3, 2022. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, AMT admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. AMT consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. AMT declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.
6. Failure by AMT to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. AMT shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. AMT shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. AMT shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and AMT. Nevertheless, AMT agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after AMT has completed all of the requirements of the Order;
 - b. AMT petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- c. the Director or the Department terminates the Order in his or its sole discretion upon 30 days' written notice to AMT.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve AMT from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by AMT and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of AMT certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind AMT to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of AMT.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, AMT voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 02 day of May, 2023.


Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

American Mountain Technologies, LLC voluntarily agrees to the issuance of this Order.

Date: 3/14/23 By: William A. Arnold SME/OWNER
(Person) (Title)
American Mountain Technologies, LLC

Commonwealth of Virginia

City/County of Washington

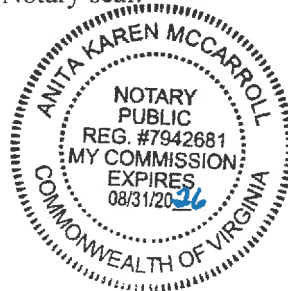
The foregoing document was signed and acknowledged before me this 16th day of
March, 2023 by William M. Arnold who is
owner of American Mountain Technologies, LLC, on behalf of the
company.

Anita Karen M. Carroll
Notary Public

7942681
Registration No.

My commission expires: 8/31/2026

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. **American Mountain Technologies, LLC**

Shall submit all documentation requested by DEQ within 10 days of date of the request unless otherwise indicated by DEQ until the Permit has been issued.

2. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports submitted to DEQ pursuant to this Consent Order, American Mountain Technologies, LLC, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. **DEQ Contact**

Unless otherwise specified in this Order, American Mountain Technologies, LLC shall submit all requirements of Appendix A of this Order to:

Susan T. Blalock
Enforcement and Air Compliance/Monitoring Manager
VA DEQ – SWRO
355-A Deadmore Street
Abingdon, Virginia 24210
(276) 608-8848
Susan.blalock@deq.virginia.gov